

APPENDIX 10 MEDICAL EXAMINATIONS

1. Introduction

1.1 Section 9 of the Adult Support and Protection (Scotland) Act 2007 allows health professionals (i.e. doctors or nurses) to carry out medical examinations on adults who are known or are believed to be at risk. A medical examination can take place either at a place being visited under Section 7 of the Act or at the premises where an adult has been taken under an Assessment Order granted under Section 11 of the Act. A medical examination includes any physical or psychological assessment or examination.

1.2 A medical assessment may be a necessary component of an Adult Protection Investigation for the following reasons:

- in order to gather evidence of harm to inform a criminal prosecution or action to safeguard the adult;
- for health reasons only, physical and/or mental; and/or
- to establish mental capacity.

1.3 Subjecting an adult to a medical examination requires serious consideration especially if they lack capacity to make informed decisions about their future care. The guiding principles governing intervention should be the current safety and well being of the adult and their future safety and development.

2. Consent

2.1 Consent must be obtained from the adult prior to a medical assessment by the G.P. If the adult lacks capacity to make informed decisions about consenting to an assessment, consent should be obtained from their Welfare Guardian or Welfare Power of Attorney. If there are no details of Welfare Guardian or Power of Attorney, the Office of the Public Guardian should be contacted to confirm whether or not one exists. If there is no Guardian or Power of Attorney, a Mental Health Officer should be consulted and consideration should be given to using provisions in the Adults with Incapacity (Scotland) Act 2000 or the Mental Health (Care and Treatment) (Scotland) Act 2003.

2.2 If there is no Welfare Guardian or Welfare Power of Attorney, or they are not available or they are alleged perpetrators or are suspected of colluding with alleged perpetrators, an Assessment Order may be applied for (see Appendix 14). An Assessment Order may also be applied for if there is a Welfare Guardian or Power of Attorney and they are refusing permission for a medical examination to take place or if it is suspected that the adult has made the decision not to participate in a medical examination due to undue pressure (see Appendix 8).

2.3 A person is not obliged to answer any questions put to him or her in an interview and must be informed of his or her right to refuse prior to a medical examination being carried out. If there are concerns that an adult has not understood the question, inquiries should be made to ensure whether there is a Welfare Guardian or Power of Attorney who should be contacted for

consent. In a forensic medical examination police may consider the use of an Appropriate Adult who could inform regarding consent. Regardless of whether the medical examination is carried out by a police doctor or a G.P. it is the responsibility of the medical practitioner to be satisfied that the adult at risk has consented or at least has no resistance to the examination.

3. Procedure

- 3.1** If an adult at risk requires immediate medical treatment, this must be sought without delay. The medical staff should be informed of any known history and that their findings may have forensic significance.

Council Officers and other non medical staff must not carry out medical examinations. However it is acceptable, when injuries and/or bruises are obvious, to assess whether these are consistent with any explanation provided. Absence of physical signs should not be taken as conclusive evidence that no harm has taken place.

- 3.2** If an adult at risk has an injury that does not require immediate treatment, he or she should be subject to an interview prior to any medical examination. This will enable the investigating officers to assess whether or not a medical is necessary.

- 3.3** A joint decision will be made regarding the necessity for a medical examination except where a crime is thought to have been committed. Decisions will be made in relation to:

- the need for the medical examination;
- the purpose of the medical examination;
- the type of medical examination;
- who should conduct the medical examination; and
- where it should take place.
- When it should take place

- 3.4** If, after a joint investigation, the Police decide not to commission a specialist medical examination, but the Council Officer believes one is necessary, the Council Officer should discuss this with the designated Team Manager or Service Manager immediately.

4. Forensic Medical Examinations

4.1 Forensic medical examinations usually take place under the following circumstances if:

- it is believed that an adult has sustained a non accidental injury;
- there is concern regarding sexual harm and there is the likelihood that physical evidence may be present;
- the adult has injuries where the explanation (from the adult or other person) is inconsistent with the injuries and an examination may provide a medical opinion as to whether or not harm has been perpetrated;
- the adult appears to have been subject to neglect or self neglect; and/or
- the adult is ill or injured and no treatment has previously been sought.

4.2 Sexual harm medical assessments will only be conducted by registered medical practitioners who are appropriately qualified and skilled. They will be forensic medical examiners contracted by the Police.

It is appropriate for the investigating Council Officer to accompany the adult for both sexual harm and physical harm medical examinations. This is in order to provide support and assessment and management of risk. The council officer will not be present when the adult is being examined. The adult may have someone else accompany them during a forensic medical examination as long as that person is not an alleged or suspected perpetrator.

4.3 It is the responsibility of the Police to co-ordinate forensic medical examinations. In cases of serious sexual offences police officers should follow the 'Scottish Investigators Guide to Serious Sexual Offences.'

4.4 Following a forensic medical examination, the forensic medical examiner should provide a hand written interim report of their findings.

4.5 Some medical examinations can be arranged by the Council Officer with the adult's GP. This would be appropriate if, for example, an adult has been injured and there is no evidence at that stage that the injury is non accidental. The consent requirements remain. If, after examination, the GP believes that injuries are non accidental, the police should be contacted immediately for further discussion.

